

REMARKS

Reconsideration of this application is requested.

The applicants affirm their election of the Group I claims; i.e. claims 1-4 (now claims 1, 2, 4 and 11).

The non-elected claims (claims 5-10) have been canceled without prejudice to divisional filing.

Claims 1 and 2 have been amended to require the presence of at least 5 of the specified perfume components. Basis for this amendment is found in the applicants' disclosure at page 7, line 2.

Claim 3 has been canceled in view of the amendment to claims 1 and 2.

New claim 11 has been presented for consideration along with elected claims 1, 2 and 4. Basis for claim 11 is found at page 7, line 3 of the applicants' disclosure.

The Examiner is requested to reconsider and withdraw the Section 102(b) rejection of claims 1 and 4 based on WO 96/30470, WO 99/18926 or Peterson et al. (U.S. 5,861,146). The requirement in claims 1 and 4 (and in claim 2 and 11) that the claimed composition contain at least 5 of the specified perfume components clearly distinguishes the claims from the references, as the Examiner has recognized. In summary, the references do not disclose a perfume composition (claim 1) or deodorant product (claim 4) containing at least 5 of the indicated perfume components. Accordingly, the Section 102(b) rejection based on the indicated WO disclosures or Peterson et al. should be withdrawn.

For similar reasons, the Examiner should reconsider and withdraw the Section 102(e) rejection of claims 1 and 4 as anticipated by Perring et al. (U.S. 6,780,835). It is noted that, because of the common ownership of the respective inventions, Perring et al. do not qualify as prior art against the applicants (see Section 103(c)) but, in any case, the patent does not disclose a perfume composition as claimed including at least 5 of the specified perfume components.

The Examiner is respectfully requested to reconsider the Section 103(a) rejection of claims 2 and 3 as unpatentable over Peterson et al. (U.S. 5,861,146). The reference does not make the compositions called for in claim 2, or in any of the applicants' other elected claims (claims 1, 4 and 11), obvious. There is, in particular, no suggestion in the reference to provide a composition containing at least 5 of the perfume components recited in the applicants' claims.

Even further removed from the reference is claim 11 which calls for at least 10 of the indicated perfume components.

The applicants' invention is based on their finding, as a result of extensive testing, of perfume components that inhibit production of odiferous steroids by microorganisms on the skin. This is explained in the third paragraph on page 4 of the applicants' specification. Such analysis has not previously been carried out, as far as the applicants are aware. The applicants have found that compositions as claimed based on use of at least 5 of the identified perfume components are particularly effective in reducing or preventing body malodor when applied to skin. The perfume components in the composition function by preventing or reducing production of odiferous materials, rather than by simply masking any unpleasant odors. There is nothing in the cited prior art to make the applicants' finding obvious.

The materials the applicants use are admittedly known to be perfume components as disclosed in the prior art cited by the Examiner. However, in the prior art, the perfume components are used solely for their fragrance properties and not for their function of inhibiting production of odiferous steroids by microorganisms on skin. There is no suggestion in the cited art that the applicants' combination of at least 5 of the perfume components specified in the applicants' claims would give the applicants' results or function in the way discovered by the applicants to give the indicated results. For the reasons indicated, the applicants submit that their claimed combination of at least 5 perfume components is not in any sense obvious from Peterson et al. A further unobvious advantage of the applicants' invention is that a composition with at least 5 of the specified perfume components provides scope for freedom of formulation of compositions having both good inhibition of production of odiferous steroids and also having desired hedonic properties. This is an important consideration in the formulation of compositions that are to be both functionally and aesthetically acceptable. There is nothing in Peterson et al., or the Examiner's other prior art, suggesting perfume compositions as claimed offering the combination of features and advantages discovered by the applicants.

Peterson (U.S. 5,861,146) concerns body odor-absorbing compositions comprising odor-absorbing cyclodextrins, perfume (preferably encapsulated) and a powder carrier. The perfume is included simply for fragrance purposes. A very long list of possible perfume ingredients is given in Columns 5 and 6, with low odor threshold materials being listed in Column 7. These lists include a number of the applicants' specified perfume components. However, the reference compositions function to reduce body odor by absorbing smell, not by preventing production of odiferous materials. Exemplified compositions A to G typically include one or two of the

applicants' specified perfume components, but the maximum amount of these is 15% in composition E (made up of 10% dihydromyrcenol and 5% alpha terpineol). There is no teaching in Peterson of the significance of the applicants' particular materials, nor of selecting them from the long lists available and using them together in the manner called for by the applicants nor would the claimed combination of components and their functions, as discovered by the applicants, be obvious.

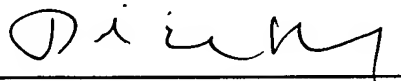
Without a knowledge of which perfume components inhibit production of odiferous steroids by microorganisms on the skin, which is the basis of the present invention, there would be no motivation to select at least five of the specified perfume components specified by the applicants and use them together in a perfume composition, for reducing or preventing body malodor when applied to skin. The invention is thus not derivable from the prior art and the applicants submit that it is not in any way rendered obvious by the prior art. Accordingly, the applicants submit that their claims, including new claim 11, define subject matter which is new, unobvious and patentable over Peterson et al. (U.S. 5,861,146). Allowance of the applicants' claims over the prior art is, therefore, requested.

With respect to the Examiner's double-patenting rejections, the applicants submit herewith terminal disclaimer with respect to U.S. Patent 6,780,835 and copending Application No. 10/5231,432. While the applicants do not agree with the basis for the Examiner's rejections, the disclaimer should obviate the rejections. Accordingly, reconsideration and withdrawal of the double-patenting rejection based on U.S. 6,780,835 and the provisional double-patenting rejection based on Application No. 10/521,432 are requested.

The application is thought to be in allowable condition and allowance is requested.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By 
Paul N. Kokulis
Reg. No. 16,773

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Customer No. 09629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 739-3000